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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA

4 v.

19 MJ 8301
17 CR 8301 (CS)

5 KSAON L. CRUTE,

6 a/k/a "Cripppy,"

7 Defendant.

8 -----x
9 Jacobi Hospital
10 Bronx, N.Y.
11 September 9, 2019
12 4:02 p.m.

13 Before:

14 THE HONORABLE LISA MARGARET SMITH,

15 Magistrate Judge

16 APPEARANCES

17 GEOFFREY S. BERMAN

18 United States Attorney for the
19 Southern District of New York

LINDSEY KEENAN

20 Assistant United States Attorney

21 HOWARD TANNER

22 Attorney for Defendant Ksaon L. Crute

23 ALSO PRESENT:

24 JOSEPH LOMBARDO, U.S. Probation Office
25 Federal Bureau of Investigation
Task Force

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1 P R O C E E D I N G S

2 THE LAW CLERK: In the matter of the United States of
3 America v. Ksaon L. Crute. The case number is 19 MJ 8301 and
4 17 CR 110.

5 Counsel, please note your appearance for the record.

6 MS. KEENAN: Lindsey Keenan for the government, your
7 Honor, joined by Joseph Lombardo from the Federal Bureau of
8 Investigation office.

9 MR. TANNER: Howard Tanner for the defendant, who is
10 laying in the hospital bed beside me.

11 THE COURT: Mr. Crute, I want to advise you that this
12 is not a trial. You will not be called upon to answer or plead
13 to any charges at this time. This proceeding is called an
14 initial appearance. During this proceeding, it's my job to
15 advise you of your rights and to determine whether bail should
16 be set that may allow you to be released, and if so, what that
17 bail should be.

18 You have an absolute right to remain silent at this
19 and at every stage of the proceeding. Any statement that you
20 do make may be used against you. You have this right to remain
21 silent, even if you have already made statements to law
22 enforcement officers, and you are not required to answer any
23 questions that law enforcement officers ask you from this
24 moment on.

25 Do you understand that, sir?

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1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: For that reason, I suggest that you
3 consult with Mr. Tanner before you answer any questions that
4 may be put to you, including questions that I will ask you
5 during this proceeding.

6 Do you understand that, sir?

7 THE DEFENDANT: Yes, ma'am.

8 THE COURT: All right.

9 Ms. Embola, would you place the defendant under oath
10 or affirmation, please.

11 Are you able to raise your right hand?

12 (Defendant complies)

13 THE COURT: That's good. That's good.

14 (Defendant Ksaon L. Crute sworn)

15 THE COURT: All right. Put your hand down.

16 It is important for you to understand that if you
17 knowingly make a false statement during these proceedings, you
18 could be subject to prosecution for perjury or for making a
19 false statement to the Court, and you could face a punishment
20 of up to five years in prison and a \$250,000 fine for
21 committing such a crime. Such punishment would be separate and
22 apart from any sentence you may be facing on the criminal
23 complaint and on the violation of supervised release.

24 Do you understand that?

25 THE DEFENDANT: Yes, ma'am.

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1 THE COURT: It is also important for you to
2 understand that any false statement you may make during this
3 proceeding may be used against you at trial if you decide to
4 testify at trial.

5 Do you understand that?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: What's your full name, sir?

8 THE DEFENDANT: Ksaon Crute.

9 THE COURT: How old are you?

10 THE DEFENDANT: Twenty-four years old.

11 THE COURT: Do you have any difficulty reading,
12 writing, speaking or understanding the English language?

13 THE DEFENDANT: No, ma'am.

14 THE COURT: How far did you go in school?

15 THE DEFENDANT: I graduated high school.

16 THE COURT: Have you been treated within the last
17 three months for any mental illness or for addiction to drugs
18 or to alcohol?

19 THE DEFENDANT: Only just this current situation.

20 THE COURT: All right. I should note for the record
21 that we are conducting this proceeding at Jacobi Hospital where
22 Mr. Crute has been since last Tuesday; is that right?

23 MR. LOMBARDO: No. Last Saturday, your Honor,
24 initially.

25 THE COURT: Last Saturday, following an automobile

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1 accident; is that correct?

2 THE DEFENDANT: Yes, September 1st.

3 THE COURT: And you have been taking medication in
4 connection with your treatment here in the hospital; is that
5 right?

6 THE DEFENDANT: Yes.

7 THE COURT: Are you feeling sufficiently clear in
8 your mind right now to be able to go forward with this
9 proceeding?

10 THE DEFENDANT: Yes.

11 THE COURT: Mr. Tanner, you've had an opportunity to
12 discuss this matter with Mr. Crute. Are you satisfied that he
13 is competent to go forward with this proceeding?

14 MR. TANNER: I am, your Honor.

15 THE COURT: I want you to understand, Mr. Crute, that
16 we were all here last week, prepared to go forward with this
17 proceeding because you, just like every other defendant, have a
18 right to have a prompt appearance before a judge after being
19 placed under arrest.

20 THE DEFENDANT: Yeah.

21 THE COURT: When we were here, Mr. Tanner came to see
22 you and he reported to me that you were not able to
23 communicate; that although your eyes were open, you were
24 completely unresponsive, so we made the decision at that point
25 not to go forward. If you're not feeling well-enough now, we

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1 can postpone this and complete it on some other day.

2 Do you feel as though you're all right to go forward
3 today?

4 THE DEFENDANT: Yes.

5 THE COURT: Okay. You have an absolute right to be
6 represented by counsel at this and at every stage of the
7 proceedings against you, including representation during any
8 questioning by the authorities, during any lineup and at all
9 court proceedings, including this one, and you have the right
10 to consult with your attorney prior to answering any questions.

11 Do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: You have the right to retain an attorney
14 of your own choosing. If you are unable to afford an attorney,
15 one will be appointed to represent you without cost to you.

16 Do you wish to be represented by a lawyer?

17 THE DEFENDANT: Yes.

18 THE COURT: Do you have the money with which to hire
19 your own attorney?

20 THE DEFENDANT: No, ma'am.

21 THE COURT: All right.

22 Ms. Embola, would you have the defendant swear to his
23 signature on the financial affidavit, please.

24 THE LAW CLERK: Mr. Crute, I'm showing you this
25 financial affidavit. Is this your signature on the financial

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1 affidavit?

2 THE DEFENDANT: Yes, ma'am.

3 THE LAW CLERK: Do you swear or affirm that the
4 information on the financial affidavit above your signature is
5 the truth, the whole truth and nothing but the truth?

6 THE DEFENDANT: Yes, ma'am.

7 THE COURT: All right. I am required to tell you
8 that making a false statement on a financial affidavit can also
9 subject you to a charge of perjury or making a false statement,
10 and you could face a punishment of up to five years in prison
11 and a \$250,000 fine for such a crime. Such punishment would be
12 separate from any other sentence you may be facing.

13 Do you understand that?

14 THE DEFENDANT: Yes, ma'am.

15 THE COURT: You are also required to notify the Court
16 if your financial status changes while this case is ongoing.

17 Do you understand that?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: Does the form that you filled out with
20 Mr. Tanner's assistance completely and accurately state your
21 financial condition?

22 THE DEFENDANT: Yes, ma'am.

23 THE COURT: Do you own or possess or have the right
24 to any money or any financial resources other than what's
25 listed on this form?

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1 THE DEFENDANT: No, ma'am.

2 THE COURT: I find that Ksaon Crute is financially --

3 THE DEFENDANT: I don't --

4 MR. TANNER: Talk to me.

5 (Counsel confers with defendant)

6 THE COURT: It's fine. It's fine.

7 I find that Ksaon Crute is financially unable to
8 obtain counsel. I appoint Howard Tanner to represent you. I
9 initially appointed Mr. Tanner to represent you last Wednesday
10 before we were able to have the financial affidavit completed,
11 and so his representation will be continuing.

12 Mr. Tanner, thank you. The Court appreciates your
13 taking the assignment.

14 MR. TANNER: Thank you, your Honor. And is this
15 assignment also on the violation of supervised release?

16 THE COURT: Yes. This is also on the violation of
17 supervised release. Although there was a different attorney, I
18 think it makes sense to have the same attorney on both of these
19 matters going forward.

20 MR. TANNER: Very well.

21 THE COURT: Mr. Crute, I'm required by law to tell
22 you that if you are not a United States citizen, you may
23 request that an attorney for the government or a federal law
24 enforcement official notify a consular officer from your
25 country to tell them that you've been arrested. You may ask

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1 your attorney to request such notification at any time while
2 this case is ongoing.

3 You have been charged with violations of the federal
4 law based on a complaint entitled United States of America v.
5 Ksaon L. Crute, also known as "Crippy," and Jamar Findlay, also
6 known as "Murder."

7 Mr. Tanner, have you reviewed the complaint with your
8 client?

9 MR. TANNER: Yes, your Honor. I read the complete
10 complaint to him. I am satisfied that he understands it.

11 THE COURT: Do you waive the public reading of the
12 complaint?

13 MR. TANNER: Yes, I do.

14 THE COURT: Have you also had an opportunity to
15 review with Mr. Crute the violation petition asserting a
16 violation of supervised release?

17 MR. TANNER: Yes, your Honor.

18 THE COURT: And are you satisfied that he understands
19 the specifications in the petition?

20 MR. TANNER: I am.

21 THE COURT: And how does your client plead? Does he
22 admit or deny the specifications?

23 MR. TANNER: We deny the specifications.

24 THE COURT: The specifications are considered denied.

25 We are not going to schedule any matter before

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1 Judge Seibel on the violation until after Mr. Crute is released
2 from the hospital.

3 And, of course, Mr. Tanner, if you can keep us posted
4 on that situation.

5 Ms. Keenan, when was the defendant taken into federal
6 custody?

7 MS. KEENAN: On September 1st, 2019, your Honor, at
8 approximately 4:34 p.m., in Mount Vernon, New York.

9 THE COURT: And what is the government's position
10 with regard to bail, this is understanding that it's an unusual
11 circumstance. We do not have a Pretrial Services report. We
12 do have a prior sentencing -- a presentence report, as well as
13 the violation petition and the complaint.

14 MS. KEENAN: The government seeks detention, your
15 Honor, both on risk of flight and danger-to-the-community
16 grounds.

17 THE COURT: And I believe being a felon in possession
18 of a firearm is a crime of violence for purposes of the Bail
19 Reform Act, but it is not a presumption case; is that right?

20 MS. KEENAN: I believe that's right, your Honor.

21 MR. TANNER: That's correct, your Honor.

22 At this point, I have discussed this matter with my
23 client. My belief is that he will be in the hospital in any
24 event for the time being. So, for that reason, until I find
25 out more information about this matter, we're going to consent

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1 to detention, pending -- with leave to make a bail application
2 in the future, your Honor.

3 THE COURT: Certainly.

4 I'm going to order the defendant, Ksaon Crute, to be
5 detained, pending further proceedings in this matter. This is
6 without prejudice to defense counsel making an application for
7 bail at any time in the future when circumstances warrant.

8 Mr. Crute, it's important for you to understand that
9 you have a right to a preliminary hearing within 14 days. If
10 necessary, that hearing could take place here. At that
11 hearing, the government would be required to present evidence
12 to establish probable cause to believe that you committed the
13 crime charged against you. The preliminary hearing would not
14 take place if the government presents your case to a grand jury
15 and obtains an indictment on or before the date of the
16 preliminary hearing.

17 In addition, you have the right to waive a
18 preliminary hearing, or you may consent to an extension of time
19 for that hearing, and by doing so, you do not give up any
20 defenses or any other rights you may have. However, you should
21 not waive or consent to an adjournment until you've had an
22 opportunity to discuss the matter with your attorney.

23 Do you understand that?

24 THE DEFENDANT: Yes, ma'am.

25 THE COURT: Mr. Tanner, what's your pleasure?

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1 MR. TANNER: We'll roll this over, Judge, to the
2 30th day.

3 MS. KEENAN: Just to note that the co-defendants have
4 a hearing date on September 25th. It might make sense to
5 keep them on the same schedule.

6 THE COURT: It might indeed make sense to put it on
7 for September 25th.

8 MS. KEENAN: Mr. Crute, does it normally make that
9 dinging noise? It's been repeatedly making noise.

10 THE DEFENDANT: Actually, it makes it worse.

11 THE COURT: Mr. Crute, it's important if your
12 circumstances change for you to make sure that either you, or
13 someone on your behalf, lets Mr. Tanner know, so that he can
14 make sure to do what he needs to do to protect your interests,
15 all right? We know you're not going to get up and run away,
16 but we want to make sure that we keep on top of this so that we
17 can move the matter forward when it's appropriate to do so, all
18 right?

19 THE DEFENDANT: Okay, ma'am. Yes, ma'am.

20 THE COURT: Do you need me to fill out a remand form?

21 THE MARSHAL: Yes.

22 THE COURT: And a medical attention, yes.

23 (Pause)

24 THE COURT: Mr. Tanner, you had raised an issue about
25 visitors.

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1 MR. TANNER: That's correct, Judge. I don't see any
2 reason why my client shouldn't be permitted to receive family
3 at this time, especially given the situation here. It's
4 important for me to be able to have a conduit here to contact
5 my client without me having to come out here on a weekly basis
6 to see whether he has any issues.

7 Aside from that, I think he should be entitled given
8 his condition. And from what I understand, he's going to be in
9 the hospital for an extended period of time. There's no reason
10 why he shouldn't be permitted to have his loved ones come and
11 visit him.

12 THE COURT: Ms. Keenan.

13 MS. KEENAN: No objection to visits from family.

14 THE COURT: All right.

15 (Pause)

16 MS. KEENAN: Your Honor, I understand from the
17 Marshals that they need to run some checks before they can
18 permit visitors, but I will update Mr. Tanner and the Court
19 accordingly as soon as those checks are complete.

20 THE COURT: All right.

21 Mr. Tanner, do we have a list of prospective
22 visitors?

23 MR. TANNER: Yes, yes, I do. And I will get them to
24 Ms. Keenan by e-mail, I guess, --

25 MS. KEENAN: That's fine.

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1 MR. TANNER: -- and then we can run those checks.

2 Is there a time frame by which how long those checks
3 take? I imagine it shouldn't take too long.

4 THE MARSHAL: It shouldn't take that long.

5 MR. TANNER: Very well.

6 THE COURT: All right. I'll give this to you.

7 Anything else?

8 MS. KEENAN: Not from the government, your Honor.

9 THE DEFENDANT: Who is --

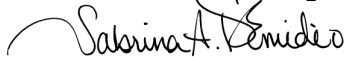
10 THE COURT: This is my law clerk. And here is the
11 court reporter. She's taking down everything that we say,
12 okay?

13 THE DEFENDANT: All right.

14 (Adjourned)

15 - - -

16 Certified to be a true and correct
17 transcript of the stenographic record
18 to the best of my ability.

19 
U.S. District Court
20 Official Court Reporter

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